

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

THOMAS ABREU,

Defendant.

16 Cr. 64 (LAP)

ORDER

LORETTA A. PRESKA, Senior United States District Judge:

The Court is in receipt of an inquiry from the Bureau of Prisons--a copy of which is attached hereto--as to whether Defendant Thomas Abreu's sentence is to run concurrently or consecutively to his state sentence. As reflected in his PSR, Mr. Abreu has had a steady stream of arrests since 1992 when he was 17 years old. He has had 12 arrests and 8 convictions and has served two prison sentences--neither of which deterred further criminal conduct. While on federal supervision, Mr. Abreu was arrested more recently on an additional state charge. In order to instill respect for the law in Mr. Abreu and protect the public from further crimes by him, the sentences shall be served consecutively.

The Clerk of the Court is respectfully directed to mail a copy of this order to: (1) Mr. Abreu; and (2) Mr. John O'Brien of the Bureau of Prisons Designation and Sentence Computation Center located at U.S. Armed Forces Reserve Complex, 346 Marine Forces Drive, Grand Prairie, Texas 75051.

SO ORDERED.

Dated: New York, New York
 August 18, 2020

Loretta A. Preska
LORETTA A. PRESKA
Senior United States District Judge



U.S. Department of Justice

Federal Bureau of Prisons

Designation and Sentence Computation Center

*U.S. Armed Forces Reserve Complex
346 Marine Forces Drive
Grand Prairie, Texas 75051*

July 21, 2020

The Honorable Loretta A. Preska
Senior United States District Court Judge
for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007-1312

RE: ABREU, Thomas

Register Number: 77166-054

Case Number: 1:16CR00064-08 (LAP)

Dear Senior Judge Preska:

On March 1, 2017, Thomas Abreu was sentenced by the Court to a 78-month term of confinement for Conspiracy to Distribute and Possess with Intent to Distribute Oxycodone. Mr. Abreu has requested that his federal sentence be served concurrently with the state term, which would be accomplished by the Bureau of Prisons (Bureau) designating the state institution for service of his federal sentence under 18 U.S.C. § 3621(b). Such action would thereby reduce the total amount of time spent in custody. In Setser v. United States, 566 U.S. 231, 237 (2012), the United States Supreme Court held that the authority to order a federal sentence concurrent with or consecutive to any other sentence rests with the federal sentencing court. The Bureau is requesting guidance as to how Mr. Abreu's federal sentence should run with respect to a sentence he has served with the State of New York.

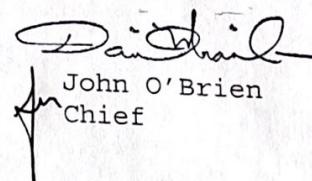
At the time the federal sentence was imposed, Mr. Abreu was under the primary jurisdiction of state authorities in New York, and in federal custody pursuant to a writ of habeas corpus. The respective Judgment in a Criminal Case was silent regarding any relationship with the forthcoming action by the state. Following sentencing, Mr. Abreu was returned to state authorities and the U.S. District Court Judgment was filed as a detainer.

On May 3, 2017, Mr. Abreu was sentenced by the State of New York to a 3-year and 6-month term of imprisonment for Criminal Possession of a Weapon, in New York County Superior Court Case Number 02554-2016. The state sentence information received by the Bureau indicates the court ordered the sentence run concurrently with the federal sentence. On August 29, 2019, Mr. Abreu's state obligation was satisfied, and he was released to the federal detainer to commence the service of his federal sentence as provided by 18 U.S.C. § 3585(a).

The Bureau strives to administer sentences in accordance with federal statutes, Bureau policy, and the intent of the sentencing court. Should the Court indicate the sentence is to run concurrently with the state term, the Bureau will commence the sentence in the above judgment on the date of imposition, which will result in Mr. Abreu's release from Bureau custody on or about April 29, 2022. Should the Court indicate the sentence is to run consecutively to the state term, he will continue to a current projected release date of March 13, 2025.

Please advise us at your earliest convenience, as to the Court's position on a retroactive designation in this case. Should additional information be necessary, please contact Marcus Boudreaux, Correctional Programs Specialist, at 972-595-3189.

Sincerely,


John O'Brien
fmr Chief

mgb

cc: Jason A. Richman, AUSA
Johnny Y. Kim, USPO